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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,816	10/19/2000	Alan Rozich	PROGRA 3.0-006	5396
530	7590	02/27/2004	EXAMINER	
LERNER, DAVID, LITTENBERG, KRMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			BARRY, CHESTER T	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/691,816	ROZICH, ALAN	
	Examiner	Art Unit	
	Chester T. Barry	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 December 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 and 6-17 is/are pending in the application.
 4a) Of the above claim(s) 1-4 and 7-15 is/are withdrawn from consideration.
 5) Claim(s) 6,16 and 17 is/are allowed.
 6) Claim(s) _____ is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 31 July 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

This application is in condition for allowance except for the following formal matters:

Claims 1 – 4, 7-15 drawn to a non-elected invention, have not yet been cancelled. Applicant must cancel claims 1 – 4 and 7 – 15 in response to this Office action. Failure to do so will result in abandonment of the application.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

The following is an examiner's statement of reasons for allowance:

Claim 17 is allowable because the prior art fails to teach or suggest the subject matter of claim 17 wherein the "chemical treatment unit" is operated at "about neutral pH, relatively high temperatures of about 120° to about 300°C and relatively high pressures of about 2 ATM to about 10 ATM," and the ORP of the mixture portion is maintained at greater than 200 mV.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The Examiner withdraws the Sec. 112, first paragraph, description, rejection of claims 16 and 6 in reliance on applicant's factual representations (at pages 7-8 of the October, 2003, response) that "substantially no biological reaction can possibly occur in applicant's claimed [chemical] treatment unit." This fact, applicant asserts, is "further confirmed by the very conditions described [on pages 14 and 15 of] the specification[, i.e., about neutral pH, relatively high temperatures of about 120° to about 300°C and relatively high pressures of about 2 ATM to about 10 ATM,] for that chemical treatment unit." Applicant states that these conditions "must be present in the chemical treatment unit" (Response, 10/2003, at page 7). These conditions, applicant factually represents, are "clearly antithetical to the conduct of any biological reaction" (Response, 10/2003, at page 8). The examiner takes Official notice of the fact that "antithetical" means "being in direct and unequivocal opposition." Known synonyms for "antithetical" include "opposite." The examiner interprets the foregoing remarks by applicant as a representation that substantially no biological reactions can occur at about neutral pH, at a temperature as low as 120°C, and at a pressure as low as about 2 ATM, i.e., at about 30 PSIA.



Chester T Barry
Examiner, Group Art Unit 1724
571-272-1152

CHESTER T. BARRY
PRIMARY EXAMINER